

**LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN COMPLAINT –CABINET BRIEFING – 13 July 2022**

**Background**

1. At Full Council on 26 May 2022, Councillor Connett asked the Lead Member for Childrens Services why the local Government and Social Care Ombudsman (LGSCO) Public Interest Case was not presented at Cabinet. The Lead Member for Childrens Services therefore asked for the report to be presented at this Cabinet Meeting and has welcomed the opportunity to provide the additional findings of the new Interim Director for Special Educational Needs (SEN). The Ombudsman's report which was published on 4 February 2022 and the report presented to Scrutiny on 15 March 2022 are appendices to this report.

2. The Ombudsman published this press release on 3 March 2022.  
<https://www.lgo.org.uk/information-centre/news/2022/mar/devon-teen-missed-out-on-education-because-of-council-delays>

**Rationale for the report being presented at Scrutiny**

3. As part of its recommendations, the Ombudsman asked the Council to consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended).

4. Scrutiny has previously been considered to be an appropriate forum to present this type of report. That precedence was set by an Adults Social Care Public Interest case which was issued in June 2021. This case was discussed at the appropriate Scrutiny Committee on 15 September 2021 as an appropriately delegated committee of elected members.

5. This specific Public Interest report was presented at Childrens Scrutiny on 15 March 2022, where the Committee members were asked to consider whether the steps set out in response to each recommendation at that time were proportionate and that there had been an appropriate level of learning by the service.

**Ombudsman Case Summary**

6. The Ombudsman decided that this case was in the Public Interest because the Council had failed to respond adequately to a parent who had made a complaint about the Council's failure to provide their child with adequate education provision from the point at which they were due to transfer to post-16 education in September 2019.

7. The parent specifically said that we:

- Failed to provide the young person post-16 education from the beginning of term in September 2019.
- Failed to ensure the provision detailed in their Education, Health and Care Plan was in place when it did put education in place.
- Failed to make sure they were provided with sufficient help and services to enable them to catch up for the period of education they missed after they began receiving education.

- Continued to fail to provide the support detailed in the young person's Education, Health and Care Plan.
8. This is the point at which the parent complained to the Local Government and Social Care Ombudsman (LGSCO).
9. The Ombudsman asked us why we did not offer the family the option to escalate their complaint to Stage two. At the time of this complaint, the Council was in emergency response to the pandemic, and it had to take the difficult decision to redeploy staff into other areas of work. This is why the Stage Two process was temporarily removed. The Council reintroduced Stage two complaints in January 2022 in line with the lifting of restrictions.
10. The parent rightly told the LGCSO that because of our failings her child missed out on educational provision and specialist support for her special educational needs. In addition, they said that because her child was not in education, she stopped receiving tax credits and this caused her unnecessary financial hardship. The parent explained that both she and her child have been caused unnecessary stress as a result of the Council's actions.
11. This resulted in the LGSCO report which is at Appendix A. The Service accepted all of the recommendations immediately and was prompt in ensuring that all of the recommendations that had a direct impact on the family involved were completed within one month.

#### **Response to the recommendations within three months**

12. At the Scrutiny session the Head of Education and Learning provided updates on the recommendations made. A response to the three-month recommendations was sent to the Ombudsman on 13 May 2022. It was agreed with the Ombudsman that we would provide further documentary evidence after that date. In addition, the Ombudsman asked the service to ensure that we 'provide updated information about the educational and special needs support and provision it is making for Ms M and demonstrate this accords with her current EHC Plan.' We have established a new address for the young person and their parent. The team have continued to make regular contact to engage with the aim of updating the EHCP in line with the recommendations set by the Ombudsman.

13. The young person's reassessment is planned to be considered by the panel on the 6 July 2022. The young person has indicated to us that they doesn't want to remain in education so the reassessment will help us to work with them to implement what they would like to do. We have been working with our colleagues in Adult Services to discuss what support might be available to this young person.

14. The service has not treated this as a one-off exercise. The Interim Director has personal oversight of this case and the submitted evidence, in order to ensure the service can improve based on the Ombudsman's recommendations.

#### **Reflections on the original report to Scrutiny**

15. Since the March Scrutiny Committee, the Interim Director has undertaken more detailed investigations as part of her improvement work. She has shared her findings with the Chief Officer for Childrens Services and the Lead Member. As part of our overall required improvements to the SEND service, our response to the recommendations also needs to improve strategic oversight, the shared understanding about what a good service and good quality is and seek to create a culture where parents and carers feels listened to. In order to achieve this our

services must engage with children, young people and families in a way that is empathetic, to deliver effective change that inspires families and partners to have confidence in the service. This will form part of our improvement plans for SEND for the future.

16. The Interim Director has now put tactical strategies in place to make improvements at pace including:
- Recruiting a specialist officer to oversee quality assurance for annual reviews
  - Creation of a specialist team to oversee the backlog of annual reviews
  - Commissioning a quality assurance tool from Invision 360 which will involve multi-agency collaborative quality assurance and training
  - Deploying two case officers in the backlog team to focus solely on post-16 young people.
  - Appointing new leads for the backlog team, and post-16 work, who will work together to ensure appropriate processes are followed.
  - Leading by example by meeting parents and young people before they escalate their complaint so that their voice is heard and listened to.
  - Providing clear direction in engagement with children, young people and families so that schools and further education providers improve the opportunities, communication with and outcomes for our young people and their families.

17. The Interim Director for SEN presented her assessment of the SEN service at the SEN Masterclass on 18 May 2022 which was hosted by the Democracy team for Scrutiny members.

18. The following week Ofsted carried out an inspection of the SEN service, we are awaiting the final letter from Ofsted and this is also informing the rapid improvement plans in implementation and development.

19. Members should also note that the parent carer forum recently shared the findings of its parent survey from the end of last year. Whilst we do not have the final letter from Ofsted, we can say that we fully expect Ofsted's report to reflect the feedback from the parent carer forum's survey.

20. The parent carer survey shared the following factors that parents have said would make a significant difference to families:

- 1) The provision of increased respite & short breaks, through clubs & activities which provide social activities enabling self-care & time off / time with another child
- 2) Effective schooling and curriculum access, through suitable education and increased school support
- 3) Improved EHC plan pathway and relationships with the 0-25 service.
- 4) Within health, access to CAMHS and Mental Health counselling
- 5) Families wanted an increased level of understanding of their child's condition- to know what groups to join, to have someone to talk to as well as an increased level of acceptance in society
- 6) Finally, there was just a call for more support, be that more support in general, financial support, or specific support to meet their needs

### **Conclusion**

21. It is normal practice to have periodic meetings with the LGSCO and we are arranging a meeting between the Interim Director for SEN and our LGSCO point of contact to build our relationship with them.

